In the High Court of Judicature for Rajasthan
Jaipur Bench
**
Cr. Msc. Petition No.2128/2007
Govind Prakash Gandarva ***Versus***
State & Kaushalya Devi

Date of Order ::: 04/12/07

Hon'ble Mr. Justice Ajay Rastogi

Mr. Shailesh Pra. Sharma, for petitioner

Notices were issued to the petitioner of maintenance application U/s 125, CrPC, to which petitioner filed reply and the learned trial Judge has fixed the matter for recording of evidence vide order dt.17/08/07. At this stage, petitioner has approached this Court by way of instant petition U/s 482, CrPC.

Basic objection is that once decree for divorce has been passed by competent court of jurisdiction on the ground of cruelty and desertion vide judgment & decree dt. 23/08/07 (Ann.3), very application filed U/s 125, CrPC claiming maintenance is not maintainable. This is not the stage for this Court to examine. Hence in the facts of instant case, this Court is not inclined to invoke inherent powers U/s 482, CrPC.

Consequently, misc. petition fails and is hereby dismissed. However, the petitioner will be at liberty to agitate such a grievance/question at appropriate stage and if raised, trial court may decide the same in accordance with law.

(**Ajay Rastogi), J.**